IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 597 of 2003
in
SPECIAL CIVIL APPLICATION No 5216 of 2003
with
CIVIL APPLICATION NO.3736 OF 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT ELECTRICITY BOARD THRO' CHIEF ENGINEER
Versus
ABDUL SATTAR RAHEMAN SHADIWAN

Appearance:
1. LETTERS PATENT APPEAL No. 597 of 2003
MR NK MAJMUDAR for Appellant No.
MR TR MISHRA for Respondent No. 1-13

CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 19/08/2003

ORAL JUDGEMENT
(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

1. Admit. Mr.T.R.Mishra waives service.

2. By this Letters Patent Appeal under Clause 15 of the Letters Patent, the only question requires to be considered and adjudicated upon is as to whether the direction and observation of the learned Single Judge in the impugned judgment, while disposing of the petition at the admission stage, without going into the merits and with liberty in favour of the respondent-original petitioner to challenge such order pursuant to the disposal of the representation to be made in the event of it being adverse to his interest, is in any way just, reasonable and sustainable or not?

3. The respondent-original petitioner is one of the employees of the appellant-Gujarat Electricity Board, who has initiated the legal battle by filing the aforesaid writ petition on the premise and contention that similarly situated employees and residing in the residential quarters of the appellant-GEB, though they are also having their own houses even after obtaining house building loans from the Board, and against whom no action is yet initiated, no action could also be taken against the respondent-original petitioner, on the basis of doctrine of discriminatory treatment. The grievance of the respondent-original petitioner cannot be sustained on the celebrated cannons of principles of jurisprudence that if one wrong doer is not facing any action or any commission or omission on the part of such person, the similarly situated wrong doer or perpetrator of the rule, regulation or any provision of law cannot be allowed to contend that he has a right to continue to perpetrate the wrong. It is neither a positive nor a permissible hostile discrimination. As a matter of fact, jurisprudentially, it is not a discrimination at all. No legal redressal could be claimed, much less the constitutional writ protection, by a wrong doer or a perpetrator of rule or regulation or provisions of law, to continue to perpetrate. He cannot be allowed to agitate what runs diametrically opposite to the provisions of rule or regulation or law on such a hypothesis or premises, and in our opinion, no redressal could be asked, as it is not a right, nor it could be considered for redressal under writ jurisdiction of Article 226 of the Constitution of India, which is designed and aimed at advancing the justice and majesty of law, and it can never be allowed to perpetrate the provisions of rules or regulations or any law. The Letters Patent Appeal at the instance of the GEB is required to be allowed only on this ground without entering into the validity, legality and propriety of the impugned directions questioned by the Board. We, therefore, hold the clear opinion that the impugned

observation and direction contained in the impugned judgment ex-parte at the admission stage, is required to be quashed and set aside. Consequently, the appeal is required to be allowed quashing the impugned direction and the observation in the judgment of the learned Single Judge while discharging the Rule. The Appeal, therefore, shall stand allowed, leaving the parties to bear their own costs.

(J.N. BHATT, ACTING C.J.)

(A.L. DAVE, J.)

[SNDEVU]
P.S.